

BEFORE THE  
BOARD OF REGISTERED NURSING  
STATE OF CALIFORNIA

In the Matter of:

RITA MERCHANT

Respondent.

File No. 2007-117

OAH No. N2007070178

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on February 8, 2008.

IT IS SO ORDERED January 10, 2008.

*Lathane N. Tate*

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RITA AGUSTIN MERCHANT,  
Red Bluff, CA

Registered Nurse License No. 459338

Respondent.

Case No. 2007-117

OAH No. N2007070178

**PROPOSED DECISION**

On October 17, 2007, in Redding, California, Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Complainant was represented by Sterling A. Smith, Deputy Attorney General.

Rita Agustin Merchant (Respondent) represented herself.

The record was closed and the matter submitted on October 17, 2007.

**FACTUAL FINDINGS**

1. On October 31, 2006, complainant Ruth Ann Terry, M.P.H., R.N., made and filed an Accusation in her official capacity as Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs, State of California. Respondent timely requested a hearing by filing a Notice of Defense. A hearing was held pursuant to Government Code section 11505.

2. On September 30, 1990, the Board issued Registered Nurse License Number 459338 to respondent.<sup>1</sup> At all times relevant the license was in full force and effect.

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<sup>1</sup> The original license was issued in the name Rita W. Agustin. The current license is in the name of Rita Agustin Merchant. Respondent used two other names while licensed: Rita Wasawas Agustin and Rita Agustin Cirollo.

3. Respondent was born in 1959. In 1981, she completed the nursing program at the University of Visayas School of Nursing in Cebu City, Philippines. She moved to New Jersey and worked as a registered nurse there from 1990 through 1992. In 1993, she came to California and worked at the Questwood Nursing Home/Chico Creek. She married and returned with her husband to New Jersey where she worked as a medical secretary, with a nursing registry and at the Atlantic City Medical Center. She separated from her husband and returned to California in 1993. She returned to work at the Questwood Nursing Home/Chico Creek. She worked there and at other facilities, part time, in Chico. She cobbled full time work out of part time and temporary assignments. She moved to Redding, remarried and worked at the Anderson Rehabilitation Care Center for three and a half years.

4. In early March 2004, Respondent was working at the Redding Care Center (Center) as a registered nurse. J.J. was a 78-year-old resident of the Center. He had been living at the Center over five years. J.J. did not suffer from diminished mental capacity. He was a retired bookkeeper and tax preparer and had owned his own business. When he was feeling well he continued to prepare tax returns. J.J. suffered from chronic bronchitis, ankylosing spondylitis, and coronary atherosclerosis. He required continuous oxygen and had a high risk of aspiration and resultant pneumonia. He required monitoring while eating and assistance to avoid aspirating food. He could not drink water and he took his oral medications with thick fluids like V8 juice or milkshakes.

5. One Sunday morning in the first few days of March 2004, respondent was distributing medications to patients on J.J.'s wing. J.J. had been very sick and was unable to dress or feed himself. Certified nurse assistant Debbie Elias was in the room attending to his needs. J.J.'s roommate, patient G.Y, was in the next bed, separated by a curtain. Respondent brought J.J. his pills and a cup of water. J.J. was lying flat on his back in bed. He told respondent he had been sick and could not take his pills without food. He told her he could not drink water. She told him he had to take his pills and she poured several pills into his mouth as well as water. Elias told her to stop and that J.J. was a very high aspiration risk. Respondent continued pouring pills and water into his mouth until he choked. He vomited the pills and respondent left, returning with Mylanta. She told him to drink the Mylanta and he told her he did not want to take it. She jerked his head back and poured the Mylanta into his mouth. Elias told her he could not take Mylanta this way. She ignored Elias. J.J. coughed and gagged and respondent dropped his head and told him to swallow. Respondent left the room while J.J. was coughing and spitting. Elias cleaned him and cleaned the vomit.

6. Elias and J.J. discussed what had happened. Elias told him she would not complain to her supervisors because she did not get along well with respondent and may not be believed. She explained to J.J. how to contact the Ombudsman and file a complaint. Patient G.Y. discussed with J.J. what he had heard behind J.J.'s curtain and urged J.J. to file a complaint. J.J. called his wife and told her what had happened. She took notes and on March 21, 2004, she wrote a letter summarizing his statement. J.J. also reported the incident to the Center's Administrator and the Center's Social Services Director. Respondent was stationed at another wing so that she would no longer work with J.J. or G.Y.

7. J.J. contacted the Ombudsman, Jo-Ann Montgomery, on March 18, 2004, and related his encounter with respondent. Montgomery then interviewed G.Y. who confirmed he had heard the incident. The Ombudsmen's report was transmitted to the Board in June 2004. The Board's investigator interviewed J.J., G.Y. and Elias, who all confirmed the events as related above.

8. J.J. died in 2005. G.Y. also died before the hearing of this matter. Thus, their statements were admitted in evidence for the purpose of supporting the testimony of Elias. Elias was a credible witness and was blunt in revealing that she disliked respondent because of her manner with patients. Elias's testimony was supported by the multiple statements of J.J. and G.Y., who were both of sound mind and who had no reason to be untruthful or to exaggerate.

9. Respondent has continuously denied that she forced medications on J.J. She maintains that she left his pills with him to eat with food, as she always had. She maintains that Elias is a liar and dislikes her because respondent is Elias's superior. She implies that Elias influenced J.J. and G.Y. to make false statements about her. She suggests that J.J. had a psychiatric illness. She implies that J.J. and G.Y. may have disliked her because of her race.

10. Respondent has been practicing nursing for twenty-five years and has no record of discipline. She submitted multiple letters of reference, several from nurses and CNAs at Redding Care Center. These letters attest to her caring nature and express that it would have been out of character for her to force medications on a patient. She also submitted letters dated in 2007 from nurses who had worked with her in various positions attesting to her skills. Respondent also submitted several evaluations from employers who rated her work as good.

11. At hearing, respondent was vague and unclear in much of her testimony, except for her adamant denials that she forced medications on J.J. She appeared to be experiencing severe emotional distress and an inability to focus her attention or to communicate clearly. Whether the stress of the Board proceedings or other factors were contributing to her condition is unknown. Her credibility was difficult to judge because of her emotional state. However, the testimony of Elias, supported by the cogent statements of J.J. and G.Y., made to multiple persons, constitute clear and convincing evidence.

12. Expert witness Catherine Daugherty established the standard of care for registered nurses in administering oral medications. Daugherty holds Bachelor's and Master's degrees in nursing. She earned her Master's degree in 1974 from the University of California at Los Angeles. She has worked in nursing for years and as a nursing consultant. She currently is employed by the State of California Board of Registered Nursing as a Nursing Education Consultant. She offered the opinion that respondent's conduct in administering medications to J.J. was incompetent and unprofessional. The standard of competent nursing practice requires that a nurse administering medications assess the patient at bedside to determine how to safely and effectively administer the medications. J.J. had

ankylosing spondylitis, a severe form of arthritis of the spine which affects the ability to sit straight upright. Precautions must be taken to assist these patients with swallowing to ensure that medications go to the stomach and so that the patient does not aspirate medications, foods or fluids. These patients often contract pneumonia from aspirating material into their lungs. In addition J.J. had a chronically obstructed airway and great care was required in administering medications, foods or liquids.

Daugherty pointed out that J.J.'s medical chart showed that when he was not feeling well enough to take his medications, he was often given an intramuscular injection of an anti-nausea medication first and later took his pills, one at a time, with food or thick liquids. Respondent's conduct was below the standard of care in failing to administer J.J.'s medications and the Mylanta. Her conduct was also below the standard of care in leaving the room to get Mylanta while the patient was choking and vomiting. J.J.'s airway was compromised and choking and vomiting placed him at risk of death or serious injury.

Daugherty established that respondent's conduct with J.J. was incompetent and unprofessional. From a medical standpoint, medications should not have been administered to this patient in the manner respondent administered them. From a professional standpoint, when a patient declines medication, or advises he cannot take medications with water, it is unprofessional conduct to force medications or water upon him. Mentally competent patients have the right to refuse treatment and here respondent did not honor J.J.'s refusal.

13. Complainant established that the reasonable costs of investigation and prosecution of this matter were \$18,690.50. Complainant established that the scope of the investigation was appropriate to the alleged misconduct. Respondent testified that she has been unable to get a job because of the pending disciplinary action and that her husband works as a warehouse worker for Wal-Mart, making about \$900 every two weeks. They have one eight-year-old child, whom they support. Respondent also sends money to the Philippines to relatives.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 2761 provides in pertinent part that the Board may take disciplinary action against a certified or licensed nurse for:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

[¶]...[¶]

2. California Code of regulations (CCR) title 16, section 1443 defines "incompetence" as it is used in Section 2761 of the code "incompetence" means the lack of

possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

3. CCR title 16, section 1443.5 sets forth standards of competent nursing performance. That section states in pertinent part:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

[¶]...[¶]

(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

4. As set forth in Factual Findings 1 through 12, cause exists to subject respondent's license to disciplinary action under Business and Professions Code section 2761, subdivision (a).

5. As set forth in Factual Findings 1 through 12 cause exists to subject respondent's license to disciplinary action under Business and Professions Code section 2761, subdivision (a)(1).

6. Respondent has a twenty-five year history of practice without discipline. Although her employment history appears chaotic, her letters of reference and employment evaluations demonstrate that those she has worked with respect her skills. Nevertheless, respondent's conduct with J.J. endangered his well being and was abusive. Her failure to admit her behavior showed an inability to take responsibility for her actions, a necessary first step toward change. In order to protect the patient population, it is necessary to impose conditions upon her continued practice.

7. Business and Professions Code section 125.3, provides, in pertinent part, that the Board may request that the Administrative Law Judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. As set forth in Factual Finding 13 the reasonable cost of the investigation and enforcement of the case is \$18,690.50. The opinion in *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, sets forth the factors to be considered in determining the reasonableness of imposing costs. Those factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed

discipline, the financial ability of the licensee to pay and whether the scope of the investigation was appropriate to the alleged misconduct. The only factor which mitigates respondent's liability for costs is her limited income, at least while she remains unemployed. Accordingly, the Board is entitled to reimbursement from respondent for the reasonable costs of investigation and prosecution of this matter in the sum of \$18,690.50. However, as set forth below, respondent may pay the Board in installments in an amount on a schedule to be determined by the Board.

## ORDER

Registered Nurse License Number 459338 issued to respondent Rita Agustin Merchant is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years on the following conditions.

**SEVERABILITY CLAUSE** – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **MENTAL HEALTH EXAMINATION** - The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if

significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

2. OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application.

3. COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

4. REPORT IN PERSON - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

5. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he or she resides outside of California. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

6. SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.



7. FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

8. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

9. SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

10. EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

11. COMPLETE NURSING COURSES - Respondent, at her own expense, shall enroll and successfully complete courses relevant to the practice of registered nursing. Respondent shall successfully complete a course in patient boundaries and/or ethics and a course in anger management within the first six months of her probationary term. The Board may extend the time for completion of these courses in the event said courses are unavailable during the first six months of Respondent's probationary term. Respondent shall complete courses relevant to the practice of registered nursing, as designated by the Board, within six months of the completion of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

12. COST RECOVERY - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$18,690.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

13. VIOLATION OF PROBATION - If respondent violates the conditions of his/her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed (revocation) of the respondent's license.

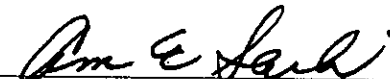
If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

14. LICENSE SURRENDER - During respondent's term of probation, she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

Dated: November 16, 2007

  
ANN ELIZABETH SARLI  
Administrative Law Judge  
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General  
of the State of California  
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6 Attorneys for Complainant  
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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007 - 117

13 RITA AGUSTIN MERCHANT,  
a.k.a. RITA W. AGUSTIN,  
14 a.k.a. RITA WASAWAS AGUSTIN,  
a.k.a. RITA AGUSTIN CIRILLO  
170 Kimick Way  
Red Bluff, CA 96080

**A C C U S A T I O N**

15 Registered Nurse License No. 459338

16 Respondent.  
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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs.

23 2. On or about September 30, 1990, the Board issued Registered Nurse  
24 License Number 459338 to Rita Agustin Merchant, also known as Rita W. Agustin, Rita  
25 Wasawas Agustin, and Rita Agustin Cirillo ("Respondent"). Respondent's registered nurse  
26 license was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on August 31, 2008, unless renewed.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 8. Respondent is subject to disciplinary action pursuant to Code section  
4 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that in or about March  
5 2004, while employed as a registered nurse at Redding Care Center, Redding, California,  
6 Respondent was guilty of incompetence in her care of resident J. J. within the meaning of  
7 Regulation 1443, as follows:

8 a. Respondent poured medications into resident J. J.'s mouth against his will  
9 and while the resident was flat on his back (the resident was at risk for aspiration).

10 b. Respondent administered Mylanta to resident J. J. by jerking the resident's  
11 neck, pouring the Mylanta into the resident's mouth against his will, then leaving the room while  
12 the resident was choking and spitting after administration of the medication.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 9. Respondent is subject to disciplinary action pursuant to Code section  
16 2761, subdivision (a), in that in or about March 2004, while employed as a registered nurse at  
17 Redding Care Center, Redding, California, Respondent committed acts constituting  
18 unprofessional conduct, as set forth in paragraph 8 above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 459338, issued  
23 to Rita Agustin Merchant, also known as Rita W. Agustin, Rita Wasawas Agustin, and Rita  
24 Agustin Cirillo;

25 2. Ordering Rita Agustin Merchant, also known as Rita W. Agustin, Rita  
26 Wasawas Agustin, and Rita Agustin Cirillo to pay the Board of Registered Nursing the

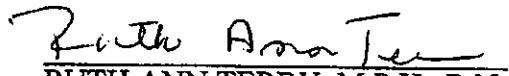
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1 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
2 Professions Code section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.

4 DATED: 10/3/06.

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6   
7 RUTH ANN TERRY, M.P.H., R.N.  
8 Executive Officer  
9 Board of Registered Nursing  
10 Department of Consumer Affairs  
11 State of California

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27 Complainant